

Park County Commission Meeting Minutes
Week of July 12 – 16, 2010
Park County, Montana

July 12, 2010

Daily Correspondence/Agenda and Briefing on Current County Projects

@8:38:42 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan and Malone were present. Also present were Raea Morris, executive assistant; Ed Hillman, road; Steve Koontz, citizen; and Commission Minutes Clerk John Mueller.

The meeting was scheduled to review the daily agenda and correspondence.

Correspondence included:

- Citizen memo re. tree cutting issue in Gardiner
- Memo re. Environmental Quality Control meeting
- Memo re. June Solid Waste Board meeting minutes
- Memo from MACo re. Montana Digital Government Summit
- Memo from MACo re. grant opportunities
- Memo from Taylor-Leavitt Insurance re. declaration

Rick VanAken of the Park County Senior Citizen's Center asked permission to speak with the county finance director regarding the center's Fiscal Year 2011 budget.

Citizen Steven Koontz asked when he will be paid for gravel he sold to the county. The Commission said it does not know whether it will crush more gravel in 2011 after losing \$500,000 of PILT funds from the federal government.

@9:04:50 a.m., Durgan made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

July 12, 2010

Signing of Union Contract for Sheriff's Office

@9:12:38 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan and Malone were present. Also present were Jill Ouellette, HR; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to sign a union contract for the Sheriff's Office.

Human Resources Analyst Jill Ouellette said the contract is a tentative agreement already met on and approved with additional tentative items.

Commissioner Durgan made a motion to sign the two-year contract for the Sheriff's Office. Commissioner Malone seconded that motion. Motion passed.

Ouellette provide the Commission with additional, ongoing negotiations language for review.

@9:20:36 a.m., Durgan made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

July 12, 2010

Review of Minutes for Week of July 5, 2010

@9:53:08 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan and Malone were present. Also present was Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to review and approve Commission meeting minutes for the Week of July 5, 2010.

Commissioner Durgan requested a revision to Page 2 of 14; first full paragraph, the first sentence should read, "Citizen Bill Harris asked if anything has transpired on Billman Lane regarding a jack fence built in the roadway by a neighboring citizen." In the second full paragraph, Commissioner Malone noted, "Road Supervisor Ed Hillman said he ordered a roadside mower on July 2..." On Page 9 of 14; the first sentence should read, "Finance Director Lani Hartung said the county has learned it likely will not expend its share of 9th Street Bridge Replacement, House Bill 645 Infrastructure Project funds by September 30, 2010, but it appears to be an easy process to change the scope of work and budget."

Commissioner Durgan made a motion to approve the minutes as corrected. Commissioner Malone seconded that motion. Motion passed.

@9:56:15 a.m., Durgan made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

July 12, 2010

Discussion of Insurance Loss Trends

@10:01:51 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan and Malone were present. Also present were Jill Ouellette, HR; Dan Gutebier, Taylor-Leavitt, and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to discuss the county's insurance loss trends.

Dan Gutebier of Taylor-Leavitt Insurance provided the Commission with a spreadsheet showing loss trends including, worker's compensation; auto collision, auto liability and auto comprehensive; and individual department incidents. Gutebier said it will be three or four years before the county will realize a noticeable improvement in its loss ratio because of attrition.

@10:33:46 a.m., Durgan made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

July 12, 2010

Litigation Strategy Rom v. Hanser

@10:37:54 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan and Malone were present. Also present were Shannan Piccolo, civil deputy county attorney; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to discuss litigation strategy for Rom v. Hanser.

Commissioner Durgan made a motion to close the meeting to the public for litigation strategy at the recommendation of legal counsel. Commissioner Malone seconded that motion. The meeting closed.

@10:58 p.m., the meeting adjourned.

July 12, 2010

11:00 A.M. - Discussion of City/County Weed Procedures - Fire Department Training Room, 2nd Floor – Commissioner Durgan and Weed Manager Clay Williams attended

3:00 P.M. - Angel Line Board - West Room – Meeting minutes available in the Commissioner's Office

3:00 P.M. - Local Advisory Committee - Mental Health Drop-In Center

July 13, 2010

8:30 A.M. - Daily Correspondence/Agenda and Briefing on Current County Projects - Commissioners Chambers – Canceled

July 13, 2010

County Road Updates

@9:01:56 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan and Malone were present. Also present were Ed

Hillman, road; Raea Morris, executive assistant; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to discuss county road issues.

Road Supervisor Ed Hillman presented the Commission with an estimate for road buildings in Wilsall damaged by hail.

Commissioner Malone said a citizen telephoned about potholes in Felix Lane and Mt. Baldy, and trees are blocking her driveway. Hillman said the road crew has not yet gotten to those roads. He said potholes in the Pine Creek cutoff road were patched, but a sunken culvert area has yet to be filled.

Commissioner Durgan said an individual requested the Wilsall Airport be mowed and another individual requested grading on Highlight Road near Big Creek. Hillman said a crewman was informed of that road and will try to get to it soon.

The Commission reviewed proposed road crew/Teamsters Union contract language.

@9:31:54 a.m., Durgan made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

July 13, 2010

Signing of Grant Offer for City/County Joint Airport Grant

@10:04:56 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan and Malone were present. Also present were Jerri Miller and Kerry LaDuke, airport board; Ed Meece, city manager; Bruce Becker, city attorney; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to sign a grant offer for a City/County Joint Airport grant.

Jerri Miller of the Airport Board said the grant offer is to be signed by the city, county and the city and county attorneys.

Commissioner Durgan made a motion to sign the grant offer for the City/County Joint Airport grant. Commissioner Malone seconded that motion. Motion passed.

@10:15:49 a.m., Durgan made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

July 13, 2010

Consider Recommendation from Parks Board for City of Livingston or Clyde Park Resident to Participate as a Voting Member of the Board

@10:34:04 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan and Malone were present. Also present were Philip Fletcher and Mike Inman, community development; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to consider a recommendation from the Parks and Recreation Board for a City of Livingston or Clyde Park resident to participate as a voting member of the board.

Community Development Director Philip Fletcher said many projects the Parks and Recreation Board are pursuing are intertwined with the City of Livingston's parks efforts. Fletcher said the board recommended at its last meeting to change its bylaws in order to permit a resident of the City of Livingston and Town of Clyde Park to sit on the board as an at-large voting member.

Commissioner Durgan made a motion to accept the recommendation to allow a City of Livingston or Clyde Park resident to participate as a voting member on the Parks Board. Commissioner Malone seconded that motion. Motion passed.

@10:37:26 a.m., Durgan made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

July 13, 2010

Discussion of Water Sources at Absaroka View Subdivision

@11:02:46 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan and Malone were present. Also present were Mike Inman, community development; Dann Babcox and Chuck Donovan, PCRFD #1 and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to discuss a water source at Absaroka View Subdivision.

Park County Rural Fire District #1 Fire Chief Dann Babcox said the district tries to view known fire fighting water sources in housing subdivisions to ensure adequacy. Babcox said a problem is that no maintenance is done on the systems and no enforcement is done after a development meets the original application requirements.

Senior Planner Mike Inman said there are ways to enforce requirements at preliminary and after final plat review, but they have not been enforced. He said the simple way to enforce non-maintained water sources is for fire departments to notify the planning division of the problem, submit a letter documenting a fire water source is not maintained, contact the Homeowner's Association requiring maintenance to county

standards, the county attorney's office will submit the same letter, the planning division will inspect the site, and if required maintenance is not done then the county puts a lien on the property or assesses a fine.

Inman said the Absaroka View Subdivision is located on Meredith Ranch Road, and its application was submitted under the 2005 subdivision regulations prior to the '06 regulations going into effect. Babcox said his records do not indicate the subdivision fire protection water source was approved by PCRFD#1. Inman said that is possible, as many subdivisions such were approved in that time period.

Inman reiterated he needs a letter submitted by the fire department; electronic, color photographs of the area; and a description of PCRFD #1's water source standards. He said he will then conduct a site inspection, and the county could require upgrading of services and charge the landowners for those services.

@11:17:01 a.m., Durgan made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

July 13, 2010

1:00 P.M. - Senior Citizens Meeting - Livingston Senior Citizens Center – Commissioner Durgan attended

7:00 P.M. - Board of Health - Community Room – No meeting held due to lack of quorum

July 14, 2010

Review Daily Agenda, Correspondence and Briefing on Current County Projects

@1:20:02 p.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan and Malone were present. Also present were Philip Fletcher, community Development; Shannan Piccolo, civil deputy county attorney; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to review the daily agenda and correspondence.

Correspondence included:

- Memo from senior planner re. Lahren boundary denial findings of fact
- Memo re. Montana Meth Project paint the state contest
- Citizen memo re. restored cannon
- Memo re. July 15 RC&D meeting agenda - To Commissioner Durgan for review
- Memo from MACo re. EPA dust regulations
- Memo re. mail ballot
- Memo re. Interim Water Policy Committee - To Durgan for review
- Memo re. Gardiner sewer violation - To Gardiner Sewer District for review
- Memo from Senator Tester re. Secure Rural Schools Funding

- Memo from Montana DEQ re. Savage Mine
- Memo from DEQ re. Energy Efficiency Community Development Block Grant
- Memo re. July 28-29 Energy Intel Committee meeting in Helena
- Citizen memo re. public information request
- Memo re. Library directory - To Durgan for review

Commissioner Durgan reported on a Senior Center meeting he attended on July 13.

@1:38:18 p.m., Durgan made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

July 14, 2010

Consider Decision on Oasis Contract for 9th Street Bridge Project Permitting Services and Amendment to Previous Oasis Contract

@1:41:08 p.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan and Malone were present. Also present were Philip Fletcher, community Development; Shannan Piccolo, civil deputy county attorney; Mike Cox, Oasis Environmental; and Commission Minutes Clerk John Mueller. No public comment made.

The meeting was scheduled to consider a decision on Oasis Environmental 9th Street Bridge Project permitting services and amendment to a previous Oasis contract.

Community Development Director Philip Fletcher said he reviewed the contract, which last expired on May 31, 2010, and said it provides a legal commitment for Oasis to work between May 31 and the start of construction of the 9th Street Bridge Replacement Project. Fletcher said the contract is important to sign to keep the project moving forward.

Civil Deputy County Attorney Shannan Piccolo said the proposed amendment enables Oasis to use funds from the expired contract that were not spent in a previous contract.

Commissioner Durgan made a motion to accept the professional services contract with Oasis not to exceed \$19,000. Commissioner Malone seconded that motion. Motion passed.

Commissioner Durgan made a motion to accept the amendment to the contract with Oasis entered into December 18, 2009, to permit extension of time allowing performance of contract services until May 31, 2011. Commissioner Malone seconded that motion. Motion passed.

@1:58:06 p.m., Durgan made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

July 14, 2010

2:00 P.M. - Human Resources Updates - Commissioners Chambers – Canceled due to scheduling conflicts

2:30 P.M. - Claims Review - Commissioners Chambers

July 15, 2010

Daily Correspondence/Agenda and Briefing on Current County Projects

@8:34:39 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Malone and Taylor were present. Also present were Raea Morris, executive assistant; Ed Hillman, road; Lani Hartung, finance; Shannan Piccolo, civil deputy county attorney; Scott Nelson, CTA Engineering; and Commission Minutes Clerk John Mueller.

The meeting was scheduled to review the daily agenda and correspondence.

Correspondence included:

- Memo from finance director re. change of scope of HB 645 funds for 9th Street Bridge
- Citizen memo re. request for a stop sign at corner of Guthrie and Miller
- Memo from Community Development Director re. disadvantaged rancher grant program
- Citizen memo re. gravel crushing and stockpiling measurements
- Memo from CTA Engineering re. professional services contract

Road Supervisor Ed Hillman said he viewed Felix Lane after a citizen complaint of a tree in a driveway. He said the road crew will address a stop sign request at Guthrie and Miller Drives. There was discussion about speed limit signs in the Five Acre Tracts.

Commissioner Taylor asked Hillman to smooth the RY Timber green box site per the Solid Waste Board.

@8:59:22 a.m., Taylor made a motion to adjourn the meeting. Malone seconded that motion. The meeting adjourned.

July 15, 2010

Consider Decision on CTA “Gap” Contract for 9th Street Bridge Project

@9:07:02 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Shannan Piccolo, civil deputy county attorney; Philip Fletcher, community development; Scott Nelson, CTA Engineering; Margot Aserlind, citizen; and Commission Minutes Clerk John Mueller.

The meeting was scheduled to consider a contract with CTA Engineering for the 9th Street Bridge Restoration Project.

Community Development Director Philip Fletcher said CTA's contracts expired on May 31, 2010, or prior to that date. Fletcher said the contract in question would develop a new scope of services to complete work not done during the "gap" period after CTA's contract expired, and is a not-to-exceed x-dollar amount. He said the contract dovetails with Oasis Environmental's contract for 9th Street Bridge work.

Civil Deputy County Attorney Shannan Piccolo said the county attorney's office has not yet reviewed the contract and she is okay with a motion to accept the contract contingent upon positive county attorney review.

Commissioner Taylor made a motion to approve the gap contract with CTA pending legal review of the Park County Attorney's Office. Commissioner Durgan seconded that motion. Motion passed.

@9:24:06 a.m., Durgan made a motion to adjourn the meeting. Taylor seconded that motion. The meeting adjourned.

July 15, 2010

Decision on Lahren Boundary Line Adjustment

@9:34:24 a.m., Chairman Malone called a meeting to order in the Commissioners Chambers. Commissioners Durgan, Malone and Taylor were present. Also present were Shannan Piccolo, civil deputy county attorney; Philip Fletcher and Mike Inman, community development; Steve Woodruff, attorney; Elizabeth Lahren, citizen; and Commission Minutes Clerk John Mueller.

The meeting was scheduled to decide on a Lahren Boundary Line Adjustment denial appeal.

There was discussion about and review of a consolidated version of findings-of-fact documents previously presented to the Commission by the Community Development Department and Attorney Steve Woodruff. That document was titled *Proposed Joint Finding of Fact*.

Reviewing "Procedural History," Commissioner Taylor made a motion to accept one through five. Commissioner Durgan seconded that motion. Motion passed.

Reviewing "Uncontested Legal Facts," Commissioner Taylor made a motion to accept one through 12. Commissioner Durgan seconded that motion. Motion passed.

Reviewing “Uncontested Material Facts,” it was agreed to remove language “any final plat” and replace with “any COS” on item #9 and striking the word “immediately” from and adding “within two years of the exemption” to item #12.

Commissioner Taylor made a motion to accept one through 12 with changes. Commissioner Durgan seconded that motion. Motion passed.

Reviewing “Disputed Findings of Fact,” Commissioner Durgan made a motion to delete, “No such affidavit was filed with the April 19, 2007, Lahren Family Transfer proposal” from and approve item #1. Commissioner Taylor seconded that motion. Motion passed.

Commissioner Taylor made a motion to approve item #2 and add, “The County Attorney’s Office and Planning Division of the Community Development Department denied the application.” Commissioner Durgan seconded that motion. Motion passed.

Commissioner Taylor made a motion to accept item #3. Commissioner Durgan seconded that motion. Motion passed.

Commissioner Taylor made a motion to accept item #4 and delete “..., which constitutes an attempt to evade the MSPA.” Commissioner Durgan seconded that motion. Motion passed.

Commissioner Taylor made a motion to accept item #5 as written. Commissioner Durgan seconded that motion. Motion passed.

Commissioner Taylor made a motion to strike lines 28, 29, and 30 from item #6. Commissioner Durgan seconded that motion. Motion passed.

Commissioner Durgan made a motion to delete the second sentence of item #7. Commissioner Taylor seconded that motion. Motion passed.

Commissioner Taylor made a motion to delete the words “at which time” and replace with “according to Mr. Inman,…” for item #8. Commissioner Durgan seconded that motion. Motion passed.

Commissioner Taylor made a motion to approve #9 with replacing the word “needed” with “wanted” and adding “one of purposes of the application was to increase the size of the parcel.” Commissioner Durgan seconded. Motion passed.

Commissioner Taylor made a motion to approve item #10. Commissioner Durgan seconded that motion. Motion passed.

Commissioner Taylor made a motion to accept the change of ending the sentence after the term “parcels” for item #11. Commissioner Durgan seconded that motion. Motion passed.

Commissioner Durgan made a motion to accept item #12 as stated. Commissioner Taylor seconded that motion. Motion passed.

Commissioner Taylor made a motion to remove item #13 as a finding of fact. Commissioner Durgan seconded that motion. Motion passed.

The Commission voted unanimously to accept item #14.

Commissioner Taylor made a motion to delete item #15. Commissioner Durgan seconded that motion. Motion passed. Commissioner Durgan voted in opposition to the motion.

In discussion, Applicant Elizabeth Lahren said the property as a whole has 100 inches of water rights. Commissioner Malone said one thing that bothers him is doing five boundary relocations in one application. Inman said the county has done boundary relocations on multiple parcels, but has not done one since he has been employed with the county that relocates entire parcels of property to areas they are not currently contiguous to. Civil Deputy County Attorney Shannan Piccolo said the result of the boundary line changes is relocation of parcels.

Lahren said her husband was trying to be fair to family members and her feeling is it is better to have a small separated piece of land that was separated by Calladonia Road put back together as one parcel instead of three separate parcels with separate wells and septic systems. Malone said he thinks this application will be a multiple boundary line change that will set precedence in the county, and he disagrees with Woodruff that parcels are not being moved to completely different locations on the property.

Inman said he suggests aggregating and dividing parcels and using subdivision review to reach what the applicants are proposing. He said there are appropriate means for what the applicants want to do. Inman said the county subdivision regulations state a citizen can only do a one-time boundary line adjustment, which means subsequent boundary line adjustments would be denied. Durgan said he has nothing against what Lahren is trying to do, but he thinks the procedure is going to come back and bite the county and he is uncomfortable with the proposal.

The Commission said it would like Piccolo to conduct legal research on the proposal before it makes a decision. The Commission directed Piccolo and Woodruff to submit independent legal briefs to the Commission. Piccolo said she will submit her brief to Woodruff for his review and comment.

Commissioner Durgan made a motion the Commission made findings at the present meeting and will not accept public input at a future meeting when it announces its decision on the matter. Commissioner Taylor seconded that motion. Motion passed.

@11:58:52 a.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting adjourned.

July 15, 2010

10:30 A.M. - Signing of Nittany Grantworks Contract- Commissioners Chambers –
Canceled due to timing issue

July 15, 2010

1:00 P.M. - RC&D Board Meeting- Montana Farm Bureau, Bozeman – Commissioner
Durgan and Community Development Director Philip Fletcher attended via conference call

2:00 P.M. - IT Advisory Committee - Community Room

3:30 P.M. - Planning Board - Community Room – Meeting minutes available at
www.parkcounty.org and in the Community Development Department

4:00 P.M. - 911 Communications - West Room – Canceled

4:00 P.M. - Library Board - Park County Library – Commissioner Durgan attended

7:00 P.M. - Solid Waste Board - West Room – No meeting held due to lack of quorum

July 16, 2010

Daily Correspondence/Agenda and Briefing on Current County Projects

@8:58:59 a.m., Commissioner Durgan called a meeting to order in the Commissioners
Chambers. Commissioners Durgan and Taylor were present. Also present were Philip
Fletcher, community Development; Lani Hartung, finance; and Commission Minutes
Clerk John Mueller. No public comment made.

The meeting was scheduled to review the daily agenda and correspondence.

Correspondence included:

- Memo re. proposed rule amendment for regulated plants - To weed supervisor for review
- Memo from Department of Public Health and Human Services re. reporting changes - To public health nurse for review
- Memo from MACo re. denial letter for damage claim against Park County for cell phone tower near Gardiner
- Citizen memo re. weed issues
- Memo from Judge Swandall re. action for petition for real property
- Memo from MACo re. Sustainable Communities Grant
- Memo from DES re. chip seal work on East River Road July 28-29 and Highway 89 North
- Memo re. certificate of liability insurance for Cooke City Water improvement project

- Memo re. CTAA grant application denial
- Memo from MRL re. grant funding program
- Memo from DES re. sidewalk ADA-compliance issue

Community Development Director Philip Fletcher updated the Commission on various grant applications and programs on which he is working. Fletcher updated the Commission about a July 19 Land Commission meeting with Montana DNRC in Helena regarding easement costs across the Yellowstone River to the county for the 9th Street Island Bridge Replacement Project.

Fletcher said he thinks he can save the Community Development Department \$70 per trip to Helena and a \$1,000 in his budget if he uses a county gas card instead of being reimbursed for driving his own vehicle. There was discussion about establishing a policy to permit such reimbursement and liability/insurance issues.

@9:38:46 a.m., Taylor made a motion to adjourn the meeting. Durgan seconded that motion. The meeting adjourned.

Marty Malone
Chairman, Park County Commission
Park County, Montana

Denise Nelson
Clerk & Recorder
Park County, Montana